



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,665	06/05/2001	Donald Gringer	30398/00024	5770

7590 06/04/2003

Raymond B. Churchill, Jr.
GOTTLIEB, RACKMAN & REISMAN, P.C.
270 Madison Avenue
New York, NY 10016

EXAMINER

DRUAN, THOMAS J

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/874,665	GRINGER ET AL.	
	Examiner Thomas J. Druan, Jr.	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
 5) Claim(s) ____ is/are allowed.
 6) Claim(s) 1-5, 7 and 12-14 is/are rejected.
 7) Claim(s) 6 and 8-11 is/are objected to.
 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,121,544 to Gilbert.

Gilbert discloses the invention as claimed including a cutting device comprising a housing comprising first and second separable portions, 3 & 4, the first portion comprising a locking aperture 26, the second portion comprising an attachment aperture 28; and a locking apparatus for removably attaching the first and second portions of the housing, the locking apparatus comprising an attachment portion 27 adapted to be fixedly attached in the attachment aperture, and a locking arm 31 adapted to be releasably locked into the locking aperture. The attachment aperture and locking aperture are correspondingly positioned wherein the locking arm becomes aligned with the locking aperture when the first and second portions of the housing are aligned for assembly. The locking arm comprises an upstanding portion 29, an actuating arm 40, and a locking lip extending in a direction opposite from said actuating arm. The attachment means comprises a shoulder and extension (fig. 3).

Art Unit: 3724

3. Claims 7 & 13 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,813,121 to Gringer.

Gringer discloses the invention as claimed including an improved cutting device having a housing formed of first and second portions 4 & 6, a return spring 60, and a blade carrier 22 biased by the return spring, the improvement comprising a locking apparatus 10/66 for releasably attaching the first and second portions of the housing, the locking apparatus being integrally molded with the return spring and the blade carrier (fig. 43). Thumb piece 10 and aperture 66 are considered a locking apparatus because when the aperture 66 is secured onto pin 64 in the lower housing 6, and the thumb piece 10 has been inserted into opening 14 of the upper housing 4 and pushed forward as shown in figure 5, the upper and lower housings are locked together even after the release lever 18 has been released from locking lip 54 since thumb piece 10 cannot go through slot 8 and aperture 66 is held securely on pin 64 (see column 4, lines 20-21 and column 5, line 58 – column 6, line 18).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert in view of USPN 6,349,473 to Schmidt.

Gilbert discloses the invention substantially as claimed, including a locking mechanism made of resilient plastic, but lacks a metal housing. Schmidt discloses a housing 12 made out of metal, and a locking mechanism 54 made out of plastic. It would have been obvious to one skilled in the art to make the first and second separable portions of Gilbert out of metal and make the locking device out of plastic since metal is durable and therefore suitable for a housing structure, and plastic is resilient, suitable for resilient locking devices.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gringer in view of Schmidt.

Gringer discloses the invention substantially as claimed, including a locking mechanism made of resilient plastic, but lacks a metal housing. Schmidt discloses a housing 12 made out of metal, and a locking mechanism 54 made out of plastic. It would have been obvious to one skilled in the art to make the first and second separable portions of Gringer out of metal and make the locking device out of plastic since metal is durable and therefore suitable for a housing structure, and plastic is resilient, suitable for resilient locking devices.

Allowable Subject Matter

7. Claims 6 & 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shutt, Keklak et al., Abidin et al., Schmidt, Sinisi et al., Panaccione, and Wonderley are cited to further show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Druan, Jr. whose telephone number is 703-308-4200. The examiner can normally be reached on M-F (8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

tjd
tjd
June 1, 2003

Boyer Ashley
BOYER ASHLEY
PRIMARY EXAMINER